REMARKS

The present amendment is responsive to the Office Action mailed in the above-referenced case on 08/10/2005, made final. Claims 1-45 stand for examination. In the Office Action the Examiner has rejected claims 1-38 and 40-45 under 35 U.S.C. 102 (e) as unpatentable over Eastep et al. (US 6,731,625), hereinafter Eastep. Claim 39 under 35 U.S.C. 103(a) over Eastep in view of Goldberg et al. (US 6,304,636), hereinafter Goldberg.

In response, the applicant has, again, carefully studied the Examiner's remarks and the references, and has concluded that the rejections are faulty, in that the actual elements of the claims and the combinational functionality is not taught or suggested in the references, in the portions applied. Applicant herein provides arguments which clearly show where the art of Eastep fails to teach or suggest applicant's invention as claimed.

Regarding claim 1, the Examiner states as to independent claim 1, "A data access and aggregation server for accessing and aggregating off-line message data for requesting users, access performed from a server location point on a data-packet-network comprising: at least one communication port for bi-directional data communication between the server and users accessing the server from remote access nodes having access to the network; at least one communication port for bidirectional communication between a server and remote communications systems operating on a telephone network; at least one data port for data communication between the server and a connected data repository" is taught in '625 col. 24, lines 1-65 of Eastep. Applicant points out this column describes the Figure 19F in Eastep's invention.

Applicant is frustrated and believes the Examiner has put an unjust responsibility on the applicant to rebut the Examiner's argument when the Examiner presents an entire column of Eastep (approximately 550 words) to teach applicant's limitation (approximately 60 words), with absolutely no additional comments regarding which element in Fig. 19F or sentences in col. 24 of Eastep actually read on applicant's claim. Figure 19F contains a satellite device 1940, Web server 1944, Gateway 1950 and DAP 1972. Applicant would feel privileged to know which one of these elements the

Examiner feels has all of the claimed functionality of applicant's claimed data access and aggregation server.

Applicant argues that the art of Eastep fails to teach a single server for accessing and aggregating off-line message data for requesting users, access performed from a server location point on a data-packet-network comprising:
at least one communication port for bi-directional data communication between the server and users accessing the server from remote access nodes having access to the network; at least one communication port for bi-directional communication between a server and remote communications systems operating on a telephone network and at least one data port for data communication between the server and a connected data repository. Eastep provides a gateway 1950 to bridge direct communications between users on the PSTN and users on the Internet.

The Examiner also states that Eastep teaches "a processor for storing server software and communication software; and, a software application for enabling automated dialing and interaction with the remote communications systems, characterized in that the server responding to requests from users dials destination numbers supplied by the users and upon connection therewith inputs any access codes required to trigger data playback whereupon the server records the played data and renders the data available to the requesting users" is shown in '625 col. 25, lines 37-45.

Applicant reproduces col. 25, lines 37- 45 below:

"The PPP to IP conversion process 2020 converts PPP packets to IP packets, and transfers the resulting IP packets to the packet classifier 2050 via the process to process interface 2085. The process to process interface can be either a physical interface between dedicated processor hardware, or can be a software interface. Some examples of process to software interfaces include function or subroutine calls, message queues, shared memory, direct memory access (DMA), and mailboxes."

Applicant argues that the above passage from Eastep merely teaches process to process communication. The processes may have shared memory, communicate through function or subroutine calls, or they may communicate through direct memory access, etc. When studied in context, process to process software is used to convert and forward packets to a packet classifier 2050. Applicant argues that Eastep fails to teach an ability

to record and aggregate off-line information requested by a user. There is no ability tint he art of Eastep to provide any access codes on behalf of users, triggering playback and records the playback data and renders the data available to requesting users. Eastep teaches that the packet classifier merely classifies and prioritizes real-time communication from communication that is not real-time.

Applicant argues that the 102 rejection against applicant's claim 1 fails because the Examiner has not adequately shown where the claimed limitations are taught in the art, *which is a requirement according to the Office.* Therefore, claim 1 is clearly patentable over the art of Eastep. Dependent claims 2-15 are patentable on their own merits, or at least as depended from a patentable claim.

Regarding independent system claim 16, the Examiner states that this claim is directed to the system of method 26 and is rejected along the same rational. Applicant endures unnecessary frustration when an Examiner rejects an apparatus claim as being anticipated, using the reasoning provided on behalf of a method claim. Apparatus claims recite various elements including the meaning and functions of those elements. The PTO has upheld basic requirements of anticipation in that it is not enough to require that the disclosure in a single prior art reference disclose all of the claimed elements, rather, as stated by the Federal Circuit, anticipation requires the presence in a single disclosure of each and every element of the claimed invention, arranged as in the recited claim. Applicant believes to create a proper prima facie case of anticipation, also supported by the Federal Circuit, the Examiner must identify the elements of the claim, determine their meaning in light of the specification, and identify corresponding elements disclosed in the allegedly anticipated reference. The Examiner has failed to provide a valid prima facie case of anticipation against applicant's claim 16.

Applicant will now address independent method claim 26. The Examiner states that steps (a) through (d) are taught in Eastep's column 24, with no additional comment. As argued on behalf of claim 1, also rejected by the Examiner relying upon column 24 of Eastep, Eastep fails to teach a user making a request and providing a number to be dialed. Applicant argues that the mere act of a user picking up a phone and making a call through Eastep's connected network cannot read on this limitation. Applicant argues that Eastep fails to retrieve off-line data on behalf of a user via automated telephone interaction. It is

simply not taught in Eastep's column 24. Perhaps the Examiner could actually point out what portions in the column read on the above claims.

Regarding step (e) which recites recording playback of off-line data and storing the recorded data, the Examiner states that Eastep teaches this feature in col. 37, lines 23-29. Applicant argues that this portion of Eastep merely teaches an ability for users to communicate with Eastep's system in an automated way, wherein a user may here a recorded voice when accessing the system or may enter DTMF signals, etc. These are simple IVR capabilities which certainly do not read on applicant's claimed limitation of accessing off-line data sources on behalf of a user, recording playback of the off-line data and storing the recorded data. Regarding step (f) of applicant's independent method claim, the Examiner states that the step is taught in col. 40, lines 21-31 of Eastep. Applicant is at a complete loss when attempting to assimilate any of the information in Eastep's passage to applicant's step (f). Applicant claims rendering the recorded data in a form downloadable to the user node. Applicant reproduces the portion of Eastep's col. 40, lines 21-31 below:

"Data management Overview

In one embodiment, the Data Management Architecture is a framework describing the various system components, how the systems interact, and the expected behaviors of each component. In this embodiment data is stored at many

locations simultaneously, but a particular piece of data and all of its replicated copies are viewed logically as a single item. A key difference in this embodiment is that the user (or end-point) dictates what data is downloaded or stored locally."

Applicant argues that the "data" described is certainly not the data as claimed in applicant's invention. Applicant objects to the piecemeal way the Examiner presents portions of the cited art to read on applicant's claims. Applicant argues that the referenced portion of Eastep's col. 40 describes an ISP Data management 2138 architecture. The data referred to is data used within the system to facilitate and communicate between system processes. The data is not on the level of the end user as claimed in applicant's invention.

In light of the above arguments, applicant believes claim 26 is clearly patentable over the art of Eastep. Therefore, apparatus claim 16 is also patentable as the Examiner
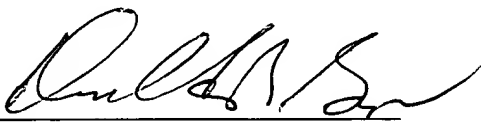
depends the two independent claims in the rejection of claim 26. Dependent claims 17-25 and 27-39 are patentable on their own merits, or at least as dependent on a patentable claim.

Regarding independent claims 40 and 43, the Examiner states that Eastep teaches collecting and aggregating, by an Internet connected server, user data not accessible on the Internet. ('625, col. 73, lines 11-36). Applicant argues that this portion of Eastep teaches sending data to users that is commonly available on the Internet; i.e. stock quotes, weather, etc.. For these reasons and additional reasons given in the above arguments on behalf of the other independent claims, Eastep is clearly shown to be lacking in it's ability to teach every element and functionality of applicant's claims. Therefore claims 40 and 43 are also patentable over the art of Eastep. Dependent claims 41-42 and 44-45 are patentable on their own merits, or at least as depended from a patentable claim.

As all of the claims are clearly shown to be patentable over the art cited and applied, applicant respectfully requests reconsideration and that the case be passed quickly to issue.

If any fees are due beyond fees paid with this amendment, authorization is made to deduct those fees from deposit account 50-0534. If any time extension is needed beyond any extension requested with this amendment, such extension is hereby requested.

Respectfully Submitted,
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